

Planning Board
Village of Tarrytown
Regular Meeting
May 22, 2017 at 7:00 p.m.

PRESENT: Chairman Friedlander, Members Tedesco and Birgy, Counsel Zalantis;
Village Engineer Pennella; Village Planner Galvin, Secretary Meszaros

Absent: Members Aukland, Raiselis

Chairman Friedlander called the meeting to order at 7:00 pm.

APPROVAL OF MINUTES – April 24, 2017

Chairman Friedlander stated that the April 24, 2017 minutes cannot be approved since there is no quorum. They will be considered at the next meeting.

CONTINUATION OF PUBLIC HEARING - Theresa Beyer – 63 Storm Street

Theresa Beyer, Architect, representing Mr. Ioannis Hantzaridis, the applicant, advised the Board that they were granted variances at the 5-8-17 ZBA meeting and are returning for site plan approval for the legalization of this home to a two-family dwelling. Ms. Beyer stated that there is enough parking on site and the layout of the home has been the same since 1984.

Mr. Birgy asked Mr. Pennella if he had any concerns or comments with regard to this application.

Mr. Pennella said this home is an existing home. Years ago, after a fire, the home was converted into a two-family. A parking variance was granted for one parking space at the 5-8-17 Zoning Board meeting and he has no other concerns with this application.

Chairman Friedlander asked if anyone in the public had any questions. No one appeared.

Mr. Tedesco formally declared this a Type II action, seconded by Mr. Birgy. All in favor.
Motion approved.

Mr. Birgy moved, seconded by Mr. Tedesco, to close the Public Hearing. All in favor.
Motion approved.

Mr. Birgy read through portions of the resolution and said that the entire resolution will be included in the minutes as follows:

**RESOLUTION
VILLAGE OF TARRYTOWN PLANNING BOARD
(Adopted May 22, 2017)**

**Application of Theresa Beyer
Property: 63 Storm Street (Sheet 1. 40, Block 11, Lot 18 and Zone M-1)**

Resolution of Site Plan Approval

Background

1. The Applicant requests site plan approval to legalize the conversion of a single-family residence to a two-family home located at 63 Storm Street.

2. The Planning Board on May 22, 2017 determined this to be a Type II Action under NYS DEC 617.5 (c) (9) *"construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in section 617.5(c)(11) and the installation, maintenance and/or upgrade of a drinking water well and a septic system."*

3. The Planning Board has conducted a duly noticed public hearing on March 27, 2017 and, thereafter, adjourned on April 24, 2017 and continued on May 22, 2017 at which time all those wishing to be heard were given the opportunity to be heard.

4. The Planning Board has carefully examined the Application including the submitted aerial photo showing the surrounding area, street photographs and a scaled street elevation and received comments and recommendations from the Village Consulting Planner in memoranda dated April 11, 2017 and May 5, 2017, and from the Building Inspector/Village Engineer in a letter of denial to the applicant dated November 8, 2016 which they have considered.

5. The Zoning Board of Appeals reviewed the Applicant's request for setbacks for front yard, individual and combined side yards and a parking variance for one space whereas five spaces are required and four spaces are being provided at a public hearing held on April 12, 2017 and continued on May 8, 2017. The Zoning Board closed the public hearing on May 8, 2017 and approved the requested area and parking variances on that date.

6. The Planning Board closed the public hearing on May 22, 2017. After closing the public hearing, the Planning Board deliberated in public on the Applicant's request for approval.

Determination

The Planning Board determines that based upon the findings and reasoning set forth below, the Application for site plan approval and the waiver for steep slopes disturbance are granted subject to the conditions set forth below.

I. Findings

The Planning Board has considered the standards set forth in the Village of Tarrytown Zoning Code ("Zoning Code") Chapter 305, Article XVI and finds that subject to the conditions set forth below, the proposed site plan is consistent with the site plan design and development principles and standards set forth therein.

The Planning Board has reviewed the Applicant's site plan. The subject property is located on a 3,943 sf lot at 63 Storm Street. The property has a paved driveway to the rear with four parking spaces. The floor area is 2,147 sf. There is no FAR requirement in the M-1 zone. The application before the Planning Board is to convert the existing one-family unit of record into a two family unit. The proposal indicates that only interior renovations will be done and no ARB review is required. The access stair and platform will be replaced with a new stair of same dimensions. The application represents that work was done by the previous owner (the father of the current owner) and enclosed a porch for a living/dining room in 1979. No changes were made to the footprint of the house. During course of inspection, the building was found to be a four unit residence. The subject property is adjacent to a four story brick, multi-family building at the corner of Wildey and Storm Streets (in the M-1 district). Residences along the same side of the street as the subject property consist of multi-family residences, two family and one family residences. Applicant has provided a street elevation of the subject property along Storm Street. There is a large treelike shrub visible from the street but no trees. The site has very little slope and the Environmental Clearance Form submitted did not identify any environmental issues.

II. Approved Plan:

Except as otherwise provided herein, all work shall be performed in strict compliance with the plans submitted to the Planning and approved by the Planning Board as follows: Plans prepared by Theresa Beyer, Architect dated 5/26/17. The Plans are entitled as follows:

- *"Site Plan for 63 Storm Street"*
 - Page 1 of 3 *"Basement- As Built Drawings"*
 - Page 2 of 3 *"First Floor Plan"*
 - Page 3 of 3 *"Second Floor Plan"*
 - *"Survey of Tax Lo No. 18, Block 11, section 1.40 as shown on the Official Tax Assessment Maps of Village of Tarrytown, Town of Greenburgh, Westchester County, New York"*
- prepared by Aristotle Bournazos, Land Surveyor-Planner, dated August 29, 2016.

(the “Approved Plans”).

III. General Conditions

(a) Prerequisites to Signing Site Plan: The following conditions must be met before the Planning Board Chair may sign the approved Site Plan (“Final Site Plan”):

i. The Planning Board’s approval is conditioned upon Applicant receiving all approvals required by other governmental approving agencies without material deviation from the Approved Plans.

ii. If as a condition to approval any changes are required to the Approved Plans, the Applicant shall submit: (i) final plans complying with all requirements and conditions of this Resolution, and (ii) a check list summary indicating how the final plans comply with all requirements of this Resolution. If said final plans comply with all the requirements of this Resolution as determined by the Village Engineer, they shall also be considered “Approved Plans.”

iii. The Applicant shall pay all outstanding consultant review and legal fees in connection with the Planning Board review of this Application.

(b) Force and Effect: No portion of any approval by the Planning Board shall take effect until (1) all conditions are met, (2) the Final Site Plan is signed by the chair of the Planning Board and (3) the Final Site Plan signed by the Planning Board Chair has been filed with the Village Clerk

(c) Commencing Work: No work may be commenced on any portion of the site without first contacting the Building Inspector to ensure that all permits and approvals have been obtained and to establish an inspection schedule. Failure to comply with this provision shall result in the immediate revocation of all permits issued by the Village along with the requirement to reapply (including the payment of application fees) for all such permits, the removal of all work performed and restoration to its original condition of any portion of the site disturbed and such other and additional civil and criminal penalties as the courts may impose.

Mr. Tedesco moved, seconded by Mr. Birgy, to approve this site-plan application.
All in favor. Motion carried.

CONTINUATION OF PUBLIC HEARING - Peter Bartolacci – 67 Miller Avenue

Peter and Suzanne Bartolacci, of 67 Miller Avenue, both appeared, along with Paul Berté, PE, the project engineer. Mrs. Bartolacci asked the Board Members if they had any questions with regard to the presentation given at the last meeting.

Chairman Friedlander said his main concern is to get the proper landscaping to screen the walls from the neighbors. One way to achieve this could be to have the existing stone wall on the property restored to be used as part of the wall construction which would allow for the planting of larger trees in the flat area. He said that the Board is giving some direction, at the applicant's request, so that they can move forward with a plan. This is a compromise which would allow the neighbors to get the appropriate screening and the applicant to get the height for a useable backyard.

Mrs. Bartolacci asked if anyone doubted if there was a 20 foot wall. She is trying to restore what was there, not to enlarge her backyard.

Mr. Tedesco asked Mr. Pennella to explain the design that would provide sufficient landscaping. Mr. Pennella said the existing lower wall would be replaced with a concrete backing and stone faced wall. This is a different type of design which does not require a geogrid. Behind this wall you would be able to plant larger trees since this wall would not require a geogrid and also gives the slope a better stability. The second, third and fourth tiers would all be geogrid walls. The village landscape architect can offer suggestions of what can be planted in those pockets.

Mrs. Bartolacci referenced the Munz Landscape Report and said she had some questions. She asked if Ms. Munz visited the property since there were photos in the report. Mr. Pennella said his understanding is that she visited the property and rang doorbells and no one answered. Mr. Bartolacci asked if this was normal procedure to do this because she thought it would be beneficial if they were there when she came. Mr. Pennella said the information in the report is based on a site visit, and, if Mrs. Bartolacci would like, the village could arrange for Ms. Munz to come back once they have come up with a plan with a sufficient planting area.

Mrs. Bartolacci asked that Ms. Munz's four recommendations in the report be clarified. Chairman Friedlander said Ms. Munz was sent to review the plan you submitted. When you submit another plan, she will go back and make a recommendation. Mrs. Bartolacci asked that the next time she visits, they be notified.

Mrs. Bartolacci again referred to the alternative design and a tree on the Baldwin's property mentioned in the Munz report. Her engineer said there would be no impact on the root structure and she asked if they would have to hire an arborist to determine that which is costly. Chairman Friedlander said to hold off until they have a firm plan.

Counsel Zalantis said it is not up to the Village Landscape Architect to design the plan. The Board has given you guidance. The next step is to provide a plan to include a construction management plan, sequencing plan, detailed drawings and a landscape plan. The Village Landscape Architect will review the plan and make recommendations on that.

Mrs. Bartolacci asked why Ms. Munz came last month since she is paying for it from the escrow and it is a concern. Counsel Zalantis said that was the application before the Board then so that is why she came out.

Counsel Zalantis said the concept is if you change the construction of lower wall, it allows trees with a bigger root system so there can be more significant plantings that will offer adequate screening. The other walls could have less significant plantings.

Mrs. Bartolacci asked if the Board has any problem with this project setting a precedent that other people may want to extend their backyard. She is only trying to restore what they had so she wanted to confirm if the Board is in agreement with this in order to move forward.

Mr. Tedesco does not see it setting a precedent, this is a unique application.

Mr. Birgy said as long as everyone is not going to bring in 1000 yards of fill to level off their backyard, he does not have a problem.

Counsel Zalantis also said every application is unique and you have submitted your facts that are unique to your application.

Mrs. Bartolacci referred to Mr. Birgy's comment in the past that if this were a new wall, he would not allow it. Mrs. Bartolacci said the point is that it is not new construction; it is something that was there. Mr. Birgy said he is willing to work out a compromise, a lot of what you presented at the last meeting may be true and it may not be true. He is not committing himself to saying that all of the evidence presented at the last meeting makes it a fact that the wall was like it was in 1952. He is moving forward.

Mrs. Bartolacci made reference to Mark Fry's letter received this afternoon, May 22, 2017 and Chairman Friedlander read the letter into the record, which is attached as "Exhibit A". Mrs. Bartolacci said that her presentation at the last meeting changed Mr. Fry's view and he is now in support of this project.

Mrs. Bartolacci came up with a couple of different suggestions and she asked to explain them. She said originally they proposed one wall. She referred to the Planning Board minutes in June of 2013 saying that the Board indicated a preference to a tiered wall with the appropriate landscaping but would keep an open mind to a single wall if the proper landscaping screened the wall from the neighbor's and also that they were sympathetic to the costs of the project and would weigh all factors. Keeping that in mind, she introduced Mr. Berté to go over the plans.

Paul Berté, PE, of Fusion Engineering, PC, said that he met with Mr. Pennella shortly after the work session and discussed the retaining wall in the front but his client was not interested in this. He showed the 3 tiered wall, not including the existing stone wall. He said, from an engineering perspective, and input from the wall manufacturer, if they were to excavate the stone wall base, there are concerns with digging in the root structure of the tree since you will need a footing for a structural wall.

Mr. Berté said that with regard to the 3 tiered wall shown, we have not provided details yet since they want to get the best application before spending any additional money on the design and address concerns of neighbors with regard to screening. We walked away from the 2 tier plan last month because we were not confident of getting the variance from the Zoning Board.

In response to comments regarding landscaping and screening, they have also revisited the single wall plan and are asking if the Board would consider this alternative. He explained that the wall would be where the existing failing wall is now. This plan would allow for the planting of significant trees and hide any structure from the neighbor to the west. This allows the wall to be 16 feet from the property line to the face of the existing stone wall.

He showed the single tier plan with a “sketch up” program and landscaping. The wall is in the same location as existing railroad tie wall, but there is room to plant significant trees and hide any structure to the neighbor to the west.

He presented the 3 tiered wall plan. Chairman Friedlander asked the depth. Mr. Berté said the wall is 3 tiers 5 feet apart, not including the stone wall. The distance of the stone wall to the first wall is only 5 feet.

Planner Galvin said the 3 tiered plan does not deal with the landscaping issue. The Board is asking for larger trees to screen the wall. Maybe you could not have the 3 tiers and get something else so that the landscaping can be accomplished. The Board is trying to work with you. Mr. Berté said this is why we are revisiting the single wall plan.

Mr. Galvin said there is a height issue with the single wall and will need a variance.

Counsel Zalantis asked if they are actual trees that can be planted in the area. Mr. Berté said no they are privet hedges. They are trying to work with their Landscape Architect to see if there is enough soil so they are not impacting the grid of the wall in front of it.

Mr. Galvin asked Mr. Berté what he thought was the best plan for this property.

Paul Berté said one wall is my suggestion. There is less disturbance of the slope and requires less fill. It is easier to build and it accomplishes the landscaping issue with less maintenance and the wall is further from the neighbor.

Mrs. Bartolacci passed out a comparison of the pros and cons of a single wall design vs. a tiered wall design and also gave a copy to the Secretary, which is included as Exhibit B.

Mr. Berté said that in terms of what we have heard, the concern of fill required, the concerns of screening the wall from the neighbors and the concerns of the Landscape Architect in terms of damaging the trees, we were compelled to revisit the single wall plan.

Mr. Galvin said the Board has been trying to work with you to avoid going to the ZBA. Mr. Birgy said we can't make a recommendation to the ZBA, even if we were in favor of a single wall, which he is not.

Mrs. Bartolacci came up and went over the Board's direction again.

Mr. Tedesco asked Mr. Pennella how many feet is needed for plants with a ball structure to survive. Mr. Pennella said you would have to defer that to Ms. Munz for her professional advice but typically about 3 feet is needed to protect them. There are other walls and designs that do not require geogrid and plantings can be put behind them. The direction the Board is giving is for a lower tiered wall that does not require a geogrid so you can plant behind it. Mr. Tedesco confirmed with Mr. Pennella that the wall would be concrete wall faced with stone, which is less expensive.

Mrs. Bartolacci said the Board suggested Norwegian Spruces in the past. The one wall plan would be able to accomplish this. Ms. Raisellis said she also would like trees. The neighbor next door to Mrs. Baldwin also said she did not want a rigid wall of Arborvitae. This is why we are again proposing the one wall.

Mrs. Bartolacci made reference to the variance for height. She said no one has ever gone to the Zoning Board to get a variance for height and said former Village Engineer, Mr. McGarvey stated at a meeting that there is no wall height requirement and they were before the Board for only for steep slopes.

Mr. Tedesco said you need to go before the Zoning Board. It is their decision. You have two choices; you can go to the ZBA and see what happens or go with the suggestion of this Board. Mrs. Bartolacci asked who determines who goes to the Zoning Board.

Counsel Zalantis said the Building Inspector has already made a determination that a wall higher than 6 feet requires a variance so you can pursue whatever options you want with respect to this determination.

Ms. Bartolacci said no other wall have gone before the Zoning Board for a variance for wall height. Back in 2013, it was never raised that they had to go to the Zoning Board. We were

proposing a wall greater than 6 feet then. Do you think we would have come up with a design that requires a variance? This is why we are frustrated.

Counsel Zalantis said you are making the argument to the wrong Board. At this point you can pursue the one wall plan or exercise appellate remedies or pursue the guidance that this Board has given you and not have to go for a variance. You have to make a determination and submit a detailed plan that can be considered.

Mrs. Bartolacci would like to put into the record that 21 Union Avenue, 116 South Broadway (14' high), 96 Main Street, 63 Miller Avenue, the house next door to them, and 2 Hudson View Way (12' high wall) were not required to go to Zoning. There are multiple examples. It does not sit right that we should be treated differently than everyone else. She does not think they are being fairly treated. They just want to restore the backyard and be treated fairly like everyone else.

Counsel Zalantis said if a mistake was made we can't be required to keep making mistakes. Counsel Zalantis said you can pursue what remedies you want. You can go with the one wall which would require a variance. It is your decision.

Mrs. Bartolacci said you are suggesting that we work with our engineer to devise a different type of wall to allow for a better landscaping to grow a row of trees and shield the view. Mrs. Bartolacci said the only concern is that it creates a huge amount of wall and a significant amount of fill. She does not want to go and do the design and no one likes it and they have to start over. She would like some level of comfort from the Board that this is a plan they can work with.

Counsel Zalantis said that the Planning Board cannot pre-approve anything.

Dr. Friedlander said it was the Board's intention from the beginning to let you have the two walls. This has been extended far beyond what anyone wishes. You made a fine presentation. The Board is also sympathetic to the neighbor. We tried to compromise a way to build the wall and have a balance. A wall has to be built; our preference was for more than one wall with appropriate landscaping. The method you have chosen put restrictions on the landscaping which is why we came up with the idea tonight to allow for proper landscaping. We want to move on and make everyone happy.

Mr. Tedesco said we are behind this project and we would like to see you get it done.

Chairman Friedlander asked if anyone else would like to comment.

Mr. James Feddigan, who lives in Yonkers, came up to read a statement on behalf of Geraldine Baldwin, 66 Riverview Avenue, into the record, which is attached as Exhibit "C".

Chairman Friedlander asked if the conclusion of the letter is that that there should be no wall? Mr. Feddigan said yes. Mary Feddigan, who lives in Yonkers, came up on behalf of

her sister-in-law, Geraldine Baldwin, 66 Riverview Avenue. She presented a picture of how the yard would look with the proposed walls and referred to all of the plans submitted for this project. She made reference to a May 12, 2017 letter to the Board asking for answers in writing which she has not yet received. She read through the letter.

Mr. Scott Voth, of 64 Riverview Avenue, came up and said he is against the wall. He said it is ugly and the screening is ineffective. It seems every proposal has gotten worse. He asked why they can't build a wall where the existing wall was.

Mrs. Bartolacci came back to respond to Mr. Voth's comment. When we were designing this wall we reached out to all the neighbors, dropped off copies and left notes to contact them. We also sent a letter at the time asking Mr. Roth for permission to access property to build the wall. At that time we did not hear anything back but they gave us authorization to go onto their property to build the wall. It is only since the neighbor next door is upset and she is rallying all the neighbors to go against the plan. When we reach out to Mrs. Baldwin she is not interested in any kind of wall. Now she is arguing that we should not have this steep slope waiver. It is a health and safety issue. Mrs. Bartolacci said we are not going to make everyone happy but we need a reasonable solution. We have every right to restore our backyard. This is a compromise situation and we are not bad neighbors. Both our neighbors on each side support our plans.

Chairman Friedlander asked if anyone else would like to speak.

Mr. Voth, of 64 Riverview Avenue, came back again and expressed his opposition.

Mr. Tedesco moved, seconded by Mr. Birgy, to continue the Public Hearing. All in favor. Motion carried.

NEW PUBLIC HEARING – Robert and Regina Berryman – 145 Altamont Avenue

Chairman Friedlander read the Public Hearing notice.

PLEASE TAKE NOTICE that the Planning Board of the Village of Tarrytown will hold a public hearing on Monday, May 22, 2017, at **7:00 p.m.** at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

Robert and Regina Berryman
145 Altamont Avenue
Tarrytown, NY 10591

for site plan approval to construct a modular block retaining wall in the rear yard. The property is located at 145 Altamont Avenue, Tarrytown, NY and is shown on the tax maps as Sheet 1.110, Block 74, Lot 10 and is in the R-10 Zoning District.

Documents are available for inspection in the Planning and Zoning Office. All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

Additional approval will be required by the Architectural Review Board.

By Order of the Planning Board

Dated May 12, 2017

Lizabeth Meszaros

Secretary to the Planning Board

The mailing receipts were received and the sign was posted.

Ralph Mastromonaco, PE, representing the applicants, Robert and Regina Berryman, is here to seek site plan approval to replace a modular block one tiered retaining wall in the rear yard on a slope greater than 25%. He presented the plan, has submitted a wall profile and a narrative to seek a waiver of steep slope from this Board.

Dr. Friedlander asked Mr. Mastromonaco to describe the length, height and location of the wall. He showed the wall on the plan and said it is about 130 feet in length and the height ranges from 2 feet on each side to no higher than 6 feet in the middle section. It is made of interlocking material. There are three trees being removed, which have been approved by the Village Landscape Architect in her report dated May 18, 2017.

Dr. Friedlander asked if anyone had any comments.

Mr. Pennella clarified for the record that the original submission required Zoning Board approval for the wall height, so the height of the wall was lowered to be in compliance with zoning requirements. Mr. Pennella visited the site and has no other comments.

Mr. Tedesco moved, seconded by Mr. Birgy, to declare this a Type II action with no further action required under SEQRA. All in favor. Motion carried.

Mr. Tedesco moved, seconded by Mr. Birgy, to close the Public Hearing. All in favor. Motion carried.

Mr. Tedesco read through portions of the resolution and said that the entire resolution will be included in the minutes as follows:

**RESOLUTION
VILLAGE OF TARRYTOWN PLANNING BOARD
(Adopted May 22, 2017)
Application of Robert and Regina Berryman
Property: 145 Altamont Avenue
(Sheet 1.110, Block 74, Lot 10 and Zone R-10)**

Resolution of Site Plan Approval

Background

1. The Applicant requests site plan approval to construct a retaining wall in the rear yard not to exceed 6' in height on property located at 145 Altamont Avenue. The proposed 150' retaining wall will be primarily 2' to 3' high with approximately 52' being at the 6' height. The application will also require a steep slope waiver pursuant to Section 305-67 F (1) (b).
2. The Planning Board on May 22, 2017 determined this to be a Type II Action under NYS DEC 617.5 (c) (10) *"construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density"*.
3. The Applicant has made a preliminary presentation to the Planning Board on April 24, 2017 and, thereafter, the Planning Board has conducted a duly noticed public hearing on May 22, 2017 at which time all those wishing to be heard were given the opportunity to be heard.
4. The Planning Board has carefully examined the Application and received comments and recommendations from the Village Consulting Planner in memorandum dated April 11, 2017, from the Village Landscape Consultant in a staff memorandum dated May 18, 2017 and from the Building Inspector/Village Engineer in a letter of denial to the applicant dated February 27, 2017 which they have considered.
5. The Planning Board has reviewed and considered the Narrative on Steep Slopes dated April 5, 2017 and revised May 11, 2017 prepared by Ralph G. Mastromonaco, P.E., the applicant's engineer, addressing the criteria for granting the waiver for steep slope disturbance. The applicant documented that the rear yard is almost entirely 25 % steep slopes and the retaining wall will disturb 1,250 sf or 12% of the total steep slopes area. The steep slope disturbance is at the rear yard of the property close to the residence and located over 60' distant from Benedict Avenue with limited visibility from Benedict Avenue screened by a row of mature trees. There is also limited visibility from the two neighboring properties.
6. The Planning Board closed the public hearing on May 22, 2017. After closing the public hearing, the Planning Board deliberated in public on the Applicant's request for approval.

Determination

The Planning Board determines that based upon the findings and reasoning set forth below, the Application for site plan approval and the waiver for steep slopes disturbance are granted subject to the conditions set forth below.

I. Findings

The Planning Board finds that the Applicant has satisfactorily addressed the criteria for granting the waiver for steep slope disturbance under 305-67(F)(1)(b) and the Planning Board finds that the applicant has established that the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant. The applicant's *Narrative* prepared by his engineer dated April 5, 2017 and revised May 11, 2017 is made part of the findings of the Planning Board and described below:

Neighborhood Character: The applicant has indicated that the proposed retaining wall is in the rear yard of the property close to the existing residence. Benedict Avenue borders the property approximately 60' to the south. Most of the retaining wall will be only 2' to 3' in height with approximately 30% being at a height of 6'. The applicant states that the proposed wall will not produce an undesirable change in the character of the neighborhood as the wall only affects the applicant's property.

Alternate Feasible Method to achieve benefit sought by applicant: The rear yard is almost entirely 25% steep slopes and the retaining wall will disturb 1,250 sf or 12% of the total steep slopes area. Approximately 80 cubic yards of certified fill will be brought into the site. The Applicant states that the disturbance is the minimum area needed to enable construction of the wall and cannot be achieved by some other method than a waiver.

Impact on Other Properties The applicant states that the minimal slope disturbance of 1,250 sf will not have a detrimental or injurious effect in the area of the subject property. There will be no danger of fire or flood from construction of the retaining wall. The subject property has no properties bordering to the south. Benedict Avenue borders the property to the south.

Consistency of Project with Intent of the Steep Slopes Chapter: The applicant states that the granting of the waiver will be consistent with the purposes, objectives or general spirit and intent of the "Visual Character and Environmentally Sensitive Areas" Chapter in the Zoning Code.

Additionally, the Applicant's *Narrative* addressed Section 305-67 (F)(b)(2)(c) of the steep slopes waiver provision, namely, that the requested waiver is the minimum encroachment on the area of steep slope. The Applicant has indicated that the new wall is to be placed just outside the existing wall to be removed. This places the new wall at the very edge of the top of the 25% slope. In this location, there is very little disturbance of the body of 25% slope – merely the top edge which is already disturbed by the existing wall system. The *Narrative* also provides a table listing the explanation for each objective in the Chapter.

In addition, the Planning Board has considered the standards set forth in the Village of Tarrytown Zoning Code ("Zoning Code") Chapter 305, Article XVI and finds that subject to the conditions set forth below, the proposed site plan is consistent with the site plan design and development principles and standards set forth therein.

The Planning Board has reviewed the Applicant's site plan. The subject property is located on a 20,342 sf property at 145 Altamont Avenue in an R-10 Residential District. The current application is for a proposed retaining wall to be constructed in the rear yard of the property. The application is zoning compliant with no ZBA variances required. The applicant's Environmental Clearance form did not identify any environmental issues other than the steep slopes waiver.

The proposed retaining wall will be approximately 150' in length. The application indicates that most of the wall will be 2' to 3' high with approximately 30% or 52' at a height of 6'. The single family residence faces Altamont Avenue and is approximately 60' distant from Benedict Avenue at the rear of the property. The elevation at Benedict Avenue runs from 272' to 298' at the back of the residence. The rear yard is almost completely within the 25% slopes. The area of the property's steep slope is approximately 10,100 sf or 49% of the total property. The applicant proposes to disturb 1,250 sf (or 12% of the total steep slopes) for the proposed wall. The amount of certified fill to be brought into the site is estimated to be 80 cubic yards. The wall itself will be an interlocking concrete block wall. The applicant will remove an existing wood deck and railroad tie retaining wall at the rear of the residence. Applicant also proposes to construct a 4' high black aluminum decorative fence in front of the proposed wall at the rear of the house. The applicant will place temporary safety fencing and silt fence approximately 20' downhill of the proposed wall. A construction access way is shown on the site plan with an anti-tracking pad. Landscaping has been included on the site plan that indicates five and four 6' to 7' green giant arborvitae planted 5' o.c. on the west and east sides respectively in proximity to the proposed wall. Two trees are indicated as being removed on the west side near the proposed wall. One tree is an 8" Maple and the other is a 20" undefined tree. The Village Landscape Consultant has indicated in her staff report dated May 18, 2017 that both trees are in poor condition and should be removed. The applicant's engineer has provided an erosion control plan. The proposed wall will not create additional flow and have no effect on surface water or groundwater.

II. Approved Plan:

Except as otherwise provided herein, all work shall be performed in strict compliance with the plans submitted to the Planning Board and approved by the Planning Board as follows:

Plans by Ralph G. Mastromonaco, P.E., P.C. The Plans are entitled and dated as follows:

- Sheet 1 of 2 *"Site Plan for Proposed Addition prepared for Robert and Regina Berryman, 145 Altamont Avenue"* dated 11/4/16 and revised 3/17/17
- Sheet 2 of 2 *"Details for Proposed Addition prepared for Robert and Regina Berryman, 145 Altamont Avenue"* dated 9/27/17 and revised 3/17/17
- Sheet 1 of 1 *"Profile Proposed Wall"* dated May 11, 2017

(the “Approved Plans”).

III. General Conditions

(a) Prerequisites to Signing Site Plan: The following conditions must be met before the Planning Board Chair may sign the approved Site Plan (“Final Site Plan”):

- i. The Planning Board’s approval is conditioned upon Applicant receiving all approvals required by other governmental approving agencies without material deviation from the Approved Plans.
- ii. If as a condition to approval any changes are required to the Approved Plans, the Applicant shall submit: (i) final plans complying with all requirements and conditions of this Resolution, and (ii) a check list summary indicating how the final plans comply with all requirements of this Resolution. If said final plans comply with all the requirements of this Resolution as determined by the Village Engineer, they shall also be considered “Approved Plans.”
- iii. The Applicant shall pay all outstanding consultant review and legal fees in connection with the Planning Board review of this Application.

(b) Force and Effect: No portion of any approval by the Planning Board shall take effect until (1) all conditions are met, (2) the Final Site Plan is signed by the chair of the Planning Board and (3) the Final Site Plan signed by the Planning Board Chair has been filed with the Village Clerk

(c) Field Changes: In the event the Village Engineer/Building Inspector agrees that, as a result of conditions in the field, field changes are necessary to complete the work authorized by the Approved Plans and deems such changes to be minor, the Village Engineer/Building Inspector may, allow such changes, subject to any applicable amendment to the approved building permit(s). If not deemed minor, any deviation from or change in the Approved Plans shall require application to the Planning Board for amendment of this approval. In all cases, amended plans shall be submitted to reflect approved field changes.

(d) ARB Review: No construction may take place and a building permit may not be issued until Applicant has obtained approval from the Board of Architectural Review in accordance with applicable provisions of the Village of Tarrytown Code.

(e) Commencing Work: No work may be commenced on any portion of the site without first contacting the Building Inspector to ensure that all permits and approvals have been obtained and to establish an inspection schedule. Failure to comply with this provision shall result in the immediate revocation of all permits issued by the Village along with the requirement to reapply (including the payment of application fees) for all such permits, the removal of all work performed and restoration to its original condition of any portion of the site disturbed and such other and additional civil and criminal penalties as the courts may impose.

(f) All landscaping shall be installed in a healthy and vigorous state and shall be inspected at the beginning and end of the growing season within the first year of installation. Individual species that do not survive beyond the first year shall be replaced at the beginning of the next growing season.

Mr. Tedesco moved, seconded by Mr. Birgy, to approve this site-plan application.
All in favor. Motion carried.

NEW PUBLIC HEARING – Thomas Bottiglieri – 16 White Street
Chairman Friedlander read the Public Hearing notice.

PLEASE TAKE NOTICE that the Planning Board of the Village of Tarrytown will hold a public hearing on Monday, May 22, 2017, at 7:00 p.m. at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

Thomas Bottiglieri
14 Skyview Drive
Armonk, NY 10504

for site-plan approval to restore an existing structure due to fire damage with interior alterations to the 4 existing dwelling units. The property is located at 16 White Street, Tarrytown, NY and is shown on the tax maps as Sheet 1.70, Block 32, Lot 13 and is in the M1 Zoning District.

Documents are available for inspection in the Planning and Zoning Office. All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

Additional approvals will be required by the Zoning Board of Appeals and the Architectural Review Board.

By Order of the Planning Board
Dated May 12, 2017

Lizabeth Meszaros
Secretary to the Planning Board

The mailing receipts were received and the sign was posted.

Jennifer L. Gray, Attorney, of Keane & Beane, P.C. appeared on behalf of the applicant to seek site plan approval for existing four family structure in M1 multifamily zone. She explained that last summer, the structure had fire damage. Most of the structure is pre-existing non-conforming, built around 1909. Because a building permit was not filed in a timely manner after the fire, the owner is required to go before this Board for site plan approval. She noted that changes are proposed to the face of the building and introduced Lou DeMasi, Architect, of DeMasi Architects, PC. She also noted that the front of the building will be improved and beautified so it will look much better than now.

Some of the variances include minimum lot size, principal building coverage, front and rear yard setbacks, off street parking and minimum floor area for each dwelling unit. They have filed a Zoning Board Application and anticipate being put on the ZBA agenda for the June 12, 2017 meeting. Lou DeMasi, the architect, came up and said the home will be replaced with vinyl siding and the stairs will be made of wood instead of railing. All of the windows will be replaced. He showed the plan and explained that they want to keep it a four-family but have made some revisions. The second floor will have one apartment consisting of three bedrooms, a kitchen, living room and dining room. The first floor will have 2 units, and the ground level will have one unit.

Mr. Birgy said that a lot of effort, time and resources have been put into this area of the Village to make it look nicer. The house next door to this structure was done very nicely and he hopes a similar effort will be made to restore this home.

Mr. DeMasi said they plan on cleaning it up and will do their best. Mr. Birgy asked what kind of windows they will use. Mr. DeMasi said they will be double hung with rows. We will also provide nice landscaping.

Mr. Birgy asked if they had any plans to change the stucco portion of the building. Mr. DeMasi said they did not but he would speak with the owner.

Mr. Pennella asked if the applicant could address the garbage location and the need to change it and to put it on the site plan. It should be modified to have an enclosed structure.

Mr. Tedesco moved, seconded by Mr. Birgy, to declare this a Type II action with no further action required under SEQRA. All in favor. Motion carried.

Mr. Tedesco moved, seconded by Mr. Birgy, to set an escrow at \$2500.00. All in favor. Motion carried.

Mr. Tedesco moved, seconded by Mr. Birgy, to continue the Public Hearing.
All in favor. Motion carried.

NEW PUBLIC HEARING – Lyndhurst -635 South Broadway

Chairman Friedlander read the Public Hearing notice.

PLEASE TAKE NOTICE that the Planning Board of the Village of Tarrytown will hold a public hearing on Monday, May 22, 2017, at **7:00 p.m.** at the Municipal Building, One Depot Plaza, Tarrytown, New York, to hear and consider an application by:

Krystyn Hastings Silver
National Trust for Historic Preservation- Lyndhurst
2600 Virginia Ave. NW - Suite 1100
Washington, DC 20037

for site plan approval to restore an historic farm garden (circa 1864).

The property is located at 635 South Broadway, Tarrytown, NY and is shown on the tax maps as Sheet 1.221, Block 129, Lots 3, 9 and 10 and is in the HC Zoning District.

Documents are available for inspection in the Planning and Zoning Office. All interested parties are invited to attend and be heard. Access to the meeting room is available to the elderly and the handicapped. Signing is available for the hearing-impaired; request must be made to the Village Clerk at least one week in advance of the meeting.

By Order of the Planning Board

Lizabeth Meszaros
Secretary to the Planning Board

DATED: May 12, 2017

The mailing receipts were received and the sign was posted.

Krystyn Hastings Silver, Executive Director, appeared on behalf of Lyndhurst to ask for permission to remove 18 trees to begin preparation for a multimillion dollar project to restore an historic garden and cherry orchard (circa 1864) on the Lyndhurst Property. She explained that this is an historic restoration of the property and the trees need to be removed to prepare soil for the garden. In accordance with the grant, they are required to hire a landscape architect within the next few months. She is seeking approval to remove

the trees at this point in time. She submitted a letter to the secretary from the Village Historic Society, stating no objection to this project. She commented on remarks made in the Village Landscape Architect's report and confirmed that the property survey was done last July.

Mr. Friedlander asked to review the photographs she mentioned. Ms. Silver said photo # 2 shows the outline of the garden and shows the 5 trees to be removed. The project covers about 1.5 acres. Photo three shows other trees that need to be removed for safety reasons.

Mr. Birgy asked if the trees will be replaced. Ms. Silver said more trees will be replaced than what they are taking down. There are 13 specimen trees which cannot be removed.

Dr. Friedlander made reference to the Village Landscape Consultant's report. Ms. Silver said that with respect to the recommendations, she is happy to replant but would like to go off of the historic landscape plans. With regard to number 4 in the report, Lyndhurst sprays the trees so that they can sell the apples, so she would like to appeal this recommendation.

Mr. Galvin said applicant has provided a narrative for a waiver of steep slopes and a resolution has been prepared for the Board's consideration. Lucille Munz's comments are included in the resolution.

Mr. Tedesco asked about the timeline for project. Ms. Silver responded as soon as possible. She said she is only here now to ask for permission to remove the trees. She would be grateful to have permission to get the trees removed now and would be pleased to come back once the Landscape Architect has designed the final plans as required for the grant.

Dr. Friedlander asked what the urgency was to approve this project. Ms. Silver said they have a benefit coming up and would like to be able to show our donors that the work is beginning; we would like to show them the open space.

Counsel Zalantis and Mr. Pennella asked about the walks that are reflected on the site plan. Impervious area will need to be a condition of approval. Mr. Pennella asked Ms. Silver how they were going to mitigate impervious surface. Ms. Silver agreed that it can be a condition to include that pervious surface be included as a condition of approval.

Mr. Galvin said he would add a condition that the applicant shall improve the paths with pervious surface to mitigate stormwater runoff.

Dr. Friedlander asked if anyone had any questions. No one appeared.

Mr. Tedesco moved, seconded by Mr. Birgy, to declare this a Type II action with no further action required under SEQRA. All in favor. Motion carried.

Mr. Tedesco moved, seconded by Mr. Birgy, to set escrow for this project at \$2,500.00. All in favor. Motion carried.

Mr. Tedesco moved, seconded by Mr. Birgy, to close the Public Hearing. All in favor. Motion carried.

Mr. Birgy read through portions of the resolution and said that the entire resolution will be included in the minutes as follows:

**RESOLUTION
VILLAGE OF TARRYTOWN PLANNING BOARD
(Adopted May 22, 2017)**

**Application of Lyndhurst/Krystyn Hastings-Silver
Property: 635 South Broadway (Sheet 1. 221, Block 129, Lots 3, 9, 10 and Zone H-C)**

Resolution of Site Plan Approval

Background

1. The Applicant requests site plan approval for the select removal of 18 trees in order to re-establish the historic farm garden and cherry orchard which were present from 1864 to 1939 on a National Trust for Historic Preservation property located at 635 South Broadway. The application will also require a steep slope waiver from the Planning Board under section 305-67 F (1) (a) (b).

2. The Planning Board on May 22, 2017 determined this to be a Type II Action under NYS DEC 617.5 (c) (3) "*agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming;*" (*restoration of a farm garden and cherry orchard*)."

3. The Planning Board has conducted a duly noticed public hearing on May 22, 2017 at which time all those wishing to be heard were given the opportunity to be heard.

4. The Planning Board has carefully examined the Application including the *Environmental Clearance Form*, a submitted letter from licensed arborists, *The Care of Trees*, dated April 25, 2017 detailing the 18 trees proposed for removal, historic maps (1873) of the property, 1905 topographical map, detailed maps from 1905 showing features to be restored, restoration maps showing landscape features to be re-established. Additionally, the Applicant has provided supporting planning documents and letters of support for the project.

5. The Planning Board has received comments and recommendations from the Village Consulting Planner in a memorandum dated May 5, 2017, from the Village Landscape Consultant in a staff report which incorporated comments from the Village Tree Commission dated May 18, 2017, and from the Building Inspector/Village Engineer in an email to the Village Landscape Consultant and the Tree Commission dated May 13, 2017 which they have considered.

6. The Planning Board has reviewed and considered the *Narrative on Steep Slopes* dated May 17, 2017 prepared by Krystyn Hastings-Silver, Executive Director of Lyndhurst, addressing the criteria for granting the waiver under 305-67 F (1) (a) which refers to the action's public benefit and involves the "adaptive reuse of an historic, ecological or scenic resource and said reuse is necessary to ensure the integrity and continued protection of the resource". The Applicant has also addressed the criteria under 305-67(F) (1) (b) for steep slope disturbance.

7. The Planning Board closed the public hearing on May 22, 2017. After closing the public hearing, the Planning Board deliberated in public on the Applicant's request for approval.

Determination

The Planning Board determines that based upon the findings and reasoning set forth below, the Application for site plan approval and the waiver for steep slopes disturbance are granted subject to the conditions set forth below.

I. Findings

The Planning Board finds that the Applicant has satisfactorily addressed the criteria for granting the waiver for steep slope disturbance under 305-67 F (1) (a) which refers to the action's public benefit and involves the "adaptive reuse of an historic, ecological or scenic resource and said reuse is necessary to ensure the integrity and continued protection of the resource". The Applicant's Engineer also addressed the criteria under 305-67(F) (1) (b) for steep slope disturbance and the Planning Board finds that the applicant has established that the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant. The applicant's *Narrative* dated May 17, 2017 is made part of the findings of the Planning Board and described below:

Neighborhood Character: Granting this waiver will produce a desirable change in the character of the neighborhood, not an undesirable one. The area in question is not visible from the street. Furthermore, it will allow for the restoration and replanting of natural elements that will enhance the appearance of this portion of the property for the public benefit.

Alternate Feasible Method to achieve benefit sought by applicant: The benefit cannot be achieved by some other methods as we are seeking to restore the farm garden and orchard in

their original historic location. This was established through field survey and based on 1873 and 1905 topo maps of the property.

Impact on Other Properties: The steep slope disturbance will have no adverse effect/changes on the physical or environmental conditions of the neighborhood. The existing conditions of the steep slope will be improved by the establishment of the cherry orchard and reduce storm water runoff within the site.

Consistency of Project with Intent of the Steep Slopes Chapter: The applicant states that granting the steep slope waiver shall afford a more stable and maintainable condition which will provide long term protection from soil erosion; provide increased slope stability and protect against slope failures; reduce storm water runoff within the site; will improve the site's historic and scenic value not only for residents of Tarrytown but to all New Yorkers and visitors to the site; and will maintain sufficient protection of the public health, safety and general welfare of the Village of Tarrytown and its residents.

In addition, the Planning Board has considered the standards set forth in the Village of Tarrytown Zoning Code ("Zoning Code") Chapter 305, Article XVI and finds that subject to the conditions set forth below, the proposed site plan is consistent with the site plan design and development principles and standards set forth therein.

The Planning Board has reviewed the Applicant's site plan. The entirety of the subject property is a National Register landmark under the control of the National Trust for Historic Preservation. The project is located in the southwestern portion of the site near the Hudson River to the rear of the Lyndhurst Mansion. The application provides a landscape restoration plan developed by landscape historian and preservationist Patricia O'Donnell (Heritage Landscapes) based on historic property maps. A certified arborist has submitted a letter dated April 25, 2017 detailing the 18 trees proposed for removal. The project is part of the Lyndhurst Riverloop project consisting of restoration of portions of Lyndhurst's lower landscape to reactivate a historic farm garden and cherry tree orchard and historic paths that formerly existed between 1864 and 1939. There will be no construction of any structures in this area. The rest of the project will be to create a connection between the Old Croton Aqueduct and Riverwalk trails. The Project is being funded through a \$500,000 grant through NYS OPRHS (Office of Parks, Recreation and Historic Preservation) and matching funds of another \$500,000. The total planned investment of One Million Dollars will create a historic landscape and connected trail system for tourists and residents w/amenities providing access to the newly restored Bowling Alley Recreation Pavilion and Lyndhurst grounds. The Village Landscape Consultant has provided specific recommendations in her staff report dated May 18, 2017 regarding tree removals and tree protection details which are included by the Planning Board as conditions of approval.

The Project enjoys widespread support with numerous letters of support provided with the Consolidated Funding Application (CFA) including Village of Tarrytown, Westchester County, SHPO, Friends of the Riverwalk and Hudson Valley Greenway.

II. Approved Plan:

Except as otherwise provided herein, all work shall be performed in strict compliance with the plans submitted to the Planning and approved by the Planning Board as follows:

Plans prepared for National Trust for Historic Preservation dated 11/6/15. The Plans are entitled as follows:

- *“Alterations to Private Yard Main –P-2” for Lyndhurst* prepared by Collado Engineering, PC.
- *Overlays were provided by applicant indicating trees to be removed and area of steep slopes* with information provided by Collado Engineering and Cahilly’s Horticultural Services, LLC.
- *“Historic Landscape Report: Significance, Analysis and Treatment – Lyndhurst, Tarrytown”* prepared by Landscapes, Landscape Architecture – Planning – Historic Preservation

(the “Approved Plans”).

III. General Conditions

- (a) Prerequisites to Signing Site Plan: The following conditions must be met before the Planning Board Chair may sign the approved Site Plan (“Final Site Plan”):
- i. The Planning Board’s approval is conditioned upon Applicant receiving all approvals required by other governmental approving agencies without material deviation from the Approved Plans.
 - ii. If as a condition to approval any changes are required to the Approved Plans, the Applicant shall submit: (i) final plans complying with all requirements and conditions of this Resolution, and (ii) a check list summary indicating how the final plans comply with all requirements of this Resolution. If said final plans comply with all the requirements of this Resolution as determined by the Village Engineer, they shall also be considered “Approved Plans.”
 - iii. The Applicant shall pay all outstanding consultant review and legal fees in connection with the Planning Board review of this Application.

- (b) **Force and Effect:** No portion of any approval by the Planning Board shall take effect until (1) all conditions are met, (2) the Final Site Plan is signed by the chair of the Planning Board and (3) the Final Site Plan signed by the Planning Board Chair has been filed with the Village Clerk

- (c) **Field Changes:** In the event the Village Engineer/Building Inspector agrees that, as a result of conditions in the field, field changes are necessary to complete the work authorized by the Approved Plans and deems such changes to be minor, the Village Engineer/Building Inspector may, allow such changes, subject to any applicable amendment to the approved building permit(s). If not deemed minor, any deviation from or change in the Approved Plans shall require application to the Planning Board for amendment of this approval. In all cases, amended plans shall be submitted to reflect approved field changes.

- (d) **Commencing Work:** No work may be commenced on any portion of the site without first contacting the Building Inspector to ensure that all permits and approvals have been obtained and to establish an inspection schedule. **Failure to comply with this provision shall result in the immediate revocation of all permits issued by the Village along with the requirement to reapply (including the payment of application fees) for all such permits, the removal of all work performed and restoration to its original condition of any portion of the site disturbed and such other and additional civil and criminal penalties as the courts may impose.**

IV. **Specific Conditions:**

Prior to the issuance of a building permit, the following shall be provided to the Building Inspector:

- (a) **Proposed planting schedule noting species, quantity and size of proposed material shall be provided; and**

- (b) **Tree protection plans and details shall be provided on a revised site plan; and**

- (c) **The Applicant shall provide a revised site plan indicating the planting of a minimum of (5) oaks on the property with at least (1) being a White Oak; and**

- (d) **The Applicant shall note on a revised site plan requiring that best management practices shall be used for the care of the orchard and farm gardens.**

- (e) The Applicant shall restore the historic paths with pervious surfaces or alternate means to address additional runoff subject to the review and approval of the Village Engineer.

Mr. Tedesco moved, seconded by Mr. Birgy, to approve this site-plan application with the specific conditions as discussed this evening. All in favor. Motion carried.

PRELIMINARY PRESENTATION - Joseph DeNardo – 1 Emerald Woods

Mr. Birgy excused himself from the meeting at 8:55 p.m.

Jim Annicchiarico, of Cronin Engineering, the project Engineer, appeared, with the applicant, Joseph Denardo to present an application for the construction of a 5,050 S.F. single family dwelling. He explained that the Planning Board approved this exact site plan back in 2009, but site plan approval has since expired requiring them to return to this Board. No changes have been made to the site plan except a house was removed off the property along with impervious surface. The driveway still remains, reducing the impervious surface. The same water and sewer connections are in place. In addition, drainage will be provided, there are no steep slopes on the property, and there will be minimal material removal of approximately 150 yards to put the foundation in with minimal grading.

The denial letter from the Building Inspector states that there are variances needed for minimum lot size, frontage (lot width), and impervious surface. He questioned why, in the original approval, they were not required to seek any variances. Mr. Pennella said it is a corner lot, but there are still 2 fronts and one front is only 144.8 feet when 150 feet is required, so a variance is required.

Mr. Galvin explained that in the Tarrytown zoning code, you need to provide 2 front lots. In other municipalities, you can select the front lot. Dr. Friedlander suggested recommending a change to this zoning code section. Mr. Galvin agreed but said, at this point, you must seek a variance from the ZBA.

Dr. Friedlander advised that there is no quorum as Mr. Birgy had to leave. The applicant may go to ZBA and return if and when he receives approval.

Mr. Tedesco asked the secretary to send the 2009 site-plan approval to the Planning Board for their review before the public hearing.

ADJOURNMENT

Mr. Tedesco moved, seconded by Dr. Friedlander, to adjourn at 9:10 pm.

Liz Meszaros
Secretary

Exhibit A

**Mark J. Fry
191 Revolutionary Road
Briarcliff Manor, New York 10510**

**Mr. Stanley Friedlander, Chairman, and
Members of the Village of Tarrytown Planning Board
Tarrytown Village Hall
One Depot Plaza
Tarrytown, NY 10591**

**Re: Application of Peter Bartolacci, 67 Miller Avenue
Removal of railroad tie wall, construction of retaining walls and landscaping of rear yard**

Dear Chairman Friedlander and Members of the Village Planning Board,

I have followed this application for many years ago in support of the down-hill neighbor Geraldine Barber, but several of my assumptions have changed based on Mr. and Mrs. Bartolacci's extraordinarily complete and cogent presentation at the public hearing on April 24, 2017.

I found the direct testimony of Mr. Bartolacci's neighbor's and former neighbors as to the original footprint of his backyard to be well documented, credible and persuasive. I was especially impressed with the testimony of Mr. Michael McGuire, who has lived in Tarrytown for 54 years, and who personally climbed on the walls in question at the age of eight. Briefly put, some of my earlier comments were shown to have been in error, and I stand corrected.

In fairness to the applicant I wish to rescind my earlier opposition to this application, and instead express my support, provided that certain reasonable conditions regarding the construction phase of this project are met.

Due to the extraordinarily sensitive nature of this project and its location, I would respectfully ask the Board to require strict adherence to the most stringent stormwater management and erosion control regulations during construction, including those measures designed to prevent erosion caused by rain storms while excavation is in progress. I would request careful phasing of the project as approved by the Village Engineer, and daily construction monitoring by the applicant's engineer to insure that all exposed soil is properly covered at the end of each day, and that all silt fencing is inspected and repaired as necessary after each significant rainfall.

I regret that I will be unable to attend continuation the Public Hearing this evening, and respectfully request that this letter be read aloud into the public record.

Thank you for your kind consideration of my comments and requests.

Respectfully submitted,

//signed//

Mark J. Fry

Exhibit B

BARTOLACCI - 67 MILLER AVENUE

One-Wall Design

Pros	Cons
Original wall design	Significant wall of ~20ft
Base of wall is ~15ft from western property line	
Less intrusive to neighbors from all adjoining properties	
Greater options for variety and size of plantings resulting in a more aesthetically pleasing view	
Significantly less fill required (~220 cubic yards)	
Maintain existing stone retaining wall on property line	
Less complex from an engineering and construction perspective	
Less expensive (materials, fill and labor)	
Easier to maintain (easier access)	

Tiered-Wall Design

Pros	Cons
Breaks up one wall into several tiers*	Significantly different from original landscape
No variance required	More intrusive to all neighbors – lower tier walls built closer to Baldwin property and more side wall visible from Roberts and Bollenbacher properties
	Limited options for size of plantings for screening (due to geogrid)
	Significantly more fill required (~545 cubic yards)
	More complex from an engineering and construction perspective
	More expensive (materials, fill and labor)
	Harder to maintain plantings

* However, unclear if this is really a "Pro" in the eyes of Ms Baldwin who stated during the February 27, 2017 planning board meeting: "The two closely positioned walls appear as one combined significant wall, not of a wall of 8ft and 10ft but that to me looks like a wall of 18ft that we'd be seeing from our yards."

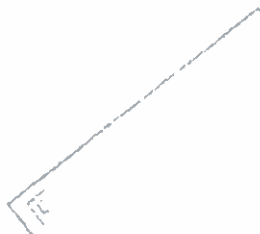


Exhibit C

Statement to Tarrytown Planning Board Re: Application of 67 Miller Avenue May 22, 2017

My name is James C. Fedigan and I am reading this Statement on behalf of Geraldine F. Baldwin who lives at 66 Riverview Avenue. It is requested that it be made of record in the file for the above-identified Application.

As has been presented previously to this Planning Board, Applicant has persisted in submitting plans for Mesa Block walls directed not to repairing the existing retaining wall as stated in the Application, but rather to eliminating the Steep Slope at the rear of Applicant's yard for the purpose of enlarging the rear yard.

To summarize, one plan after another, totaling 7 actual Plans and one "Conceptual Plan" for Mesa Block walls have been presented to eliminate the Steep Slope in violation of the Village Code.

Despite the repeated recommendations of the Planning Board to consider alternative, less disruptive wall designs, Applicant persists in seeking Mesa Block walls which require extensive geogrids that eliminate the Steep Slope and require outrageous amounts of fill. Such persistence not only ignores the Village Code's Protection of Steep Slopes but actually completely contravenes the Village's objectives and intent to protect the unique features of the Village landscapes.

Approval of any plan for Mesa Block walls or any similar type walls requiring extensive geogrids and fill in the residential Village neighborhood will set a very bad precedent for the neighborhood and for the Village as a whole. The walls will be visible to anyone walking or driving along Riverview Avenue. This will change how Tarrytown looks in the future.

In the past, Tarrytown has been recognized by Forbes magazine for being "One of the prettiest of the River Towns." To the present it remains so. The Village Code is essential to maintain this reputation for the Village by preserving its unique landscape and natural appearing habitats. This Planning Board is charged with the responsibility for preserving the unique features including Steep Slopes.

The Village Code does provide a waiver of the prohibitions of the Steep Slope protections for those applications which are demonstrated to not negatively impact the neighborhood by producing an undesirable change, do minimize disturbance of the Steep Slope, cannot be achieved without a waiver and are not inconsistent with the objectives of the Steep Slope protection.

None of the Actual Plans or the current Conceptual Plan meet any of the justifications for a waiver. To date, Applicant has not and cannot justify these walls except to allege the yard was larger many years ago (well before Applicant owned it). Such allegation, however, is completely irrelevant to any issue before this Planning Board.

No vegetation can co-exist with the Mesa block walls. Given the compaction required for the walls, there are sure to be negative changes in the water runoff from wall to wall down to the adjoining properties. There are sure to be very negative impacts to the large flowering cherry tree on my adjoining property to the West and to another tree on the adjoining property to the South. This Planning Board is

charged with responsibility for preventing such negative impacts on the aesthetic character of the Village and its neighborhoods.

Date	Height	Length of Geogrid
June 12, 2012	Top wall 10 feet Lower wall 8 feet <u>Total Wall 18 feet</u>	10 feet
September 5, 2012	One wall 20 feet	
April 1, 2013	One wall 14 feet	16 feet
June 1, 2013	One wall 12 feet	
August 22, 2013	One wall 20 feet	16 feet
January 27, 2017	Top wall 10 feet Lower wall 8 feet <u>Total Wall 18 feet</u>	10 feet 10 feet
February 24, 2017	Top wall 10 feet Lower wall 8 feet <u>Total Wall 18 feet</u>	10 feet 8 feet
April 12, 2017*	Four walls 6 feet <u>Total Wall 24 feet</u>	10 feet

***Conceptual Plan- no details re construction**